

## **REMARKS**

### **Amendments to the Claims**

Upon entry of the amendment, claims 1, 4, 42, 43, 45-49, and 57-60 are pending.

Claims 50-56 have been canceled by the instant amendment.

Claim 1 has been amended to recite that "said glycoprotein is isolated from a membrane preparation of gastric adenocarcinoma cells by chromatographic processes." Support for this amendment is found throughout the specification and claims filed for example, at page 5, line 7 to page 6, line 8; and in the Examples at page 19, line 19 to page 20, line 5 of the English language specification.

Claims 4 and 42 have been re-written in independent form. Support for this amendment is found throughout the specification and claims filed for example, at page 5, line 24 to page 6, line 8, and in the Examples at page 19, line 19 to page 20, line 5 of the English language specification.

Support for new claims 57-60 is found throughout the specification and claims filed for example, at page 5, line 24 to page 6, line 8, and in the Examples at page 19, line 19 to page 20, line 5 of the English language specification.

Applicants submit that no new matter has been added by way of these amendments. These amendments are made without prejudice and are not to be construed as abandonment of the previously claimed subject matter or agreement with any objection or rejection of record. Accordingly, entry of the amendment is respectfully requested.

### **Summary of Examiner Interview**

Applicants would like to thank the Examiner for taking the time to discuss Applicants' proposed claim amendments and the art rejections of record. As discussed, Applicants have made the proposed amendments to the claims incorporating the Examiner's suggestions.

### **Detailed Action**

1-3. Applicants note with appreciation that the submission filed on November 1, 2007 has been entered.

**Rejections Withdrawn**

4. Applicants thank the Examiner for withdrawing the rejection of claims 1, 4, 42, 43 and 45-56 under 35 U.S.C. § 112 First paragraph.

**Rejection of Claims Under 35 U.S.C. § 102(b)**

Claims 1, 4, 42, 43 and 45-56 remain rejected under 35 U.S.C. § 102(b), as allegedly anticipated by Vollmers et al (Cancer 76(4): 550-558; "Vollmers") as evidenced by Hensel et al. (Cancer Research, 1999, 59:5299-5306; "Hensel") for the reasons of record. Specifically, the Examiner, while concurring that the starting material in Vollmers differs from that utilized in the instant invention, asserts that the isolated 82 kD glycoprotein of the instant invention is inherently a constituent of the whole cell extract of Vollmers and further asserts that the cell extract of Vollmers is isolated from stomach adenocarcinoma cell line 23132.

Applicants respectfully disagree and traverse.

Preliminarily, Applicants respectfully point out that Claims 50-56 have been canceled by the instant amendment rendering the rejection as applied to these claims moot. In addition, solely to expedite prosecution Applicants have amended claim 1 to recite that the glycoprotein is isolated from a membrane preparation of gastric adenocarcinoma cells by chromatographic processes. Applicants have also re-written claims 4 and 42 in independent form.

A claim is anticipated under 35 U.S.C. § 102 only if "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil of Cal.*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (see also, M.P.E.P. § 2131, pp. 2100-73 *et seq.*, 8th Ed., Latest Rev., May 2004).

As amended claims 1, 4 and 42 are not anticipated by Vollmers since Vollmers merely teaches that the SC-1 antibody reacts with a 50 kD protein present in cell lysates from stomach adenocarcinoma cell line 23132. In contrast, the claimed invention is directed to an isolated 82 kD glycoprotein comprising the amino acid sequence of CD55 and a tumor specific glycostructure isolated from, for example, a membrane preparation of gastric adenocarcinoma cells by chromatography, and processes for obtaining the same. The use of membrane preparations and chromatography for the isolation of the 82 kD glycoprotein of the instant invention is taught throughout the specification, for example at page 5, line 24 to page 6, line 8 of the English language specification. Vollmers does not teach or suggest an 82 kD

glycoprotein comprising the amino acid sequence of CD55 and a tumor specific glycostructure or the isolation of the same from membrane preparations of gastric adenocarcinoma cells by chromatography.

Furthermore, the instant specification discloses that the SC-1 antibody can detect the 82 kD glycoprotein of the instant invention in *membrane fractions*, but not in the *cell lysate* of Vollmers. In addition, the instant specification identifies the 50 kD protein recognized by the SC-1 antibody as dihydrolipoamide-succinyltransferase (see, *e.g.*, page 28, lines 13-25, of the English language specification), not as CD55. Thus, the 82 kD glycoprotein and membrane extracts of the instant invention are distinct from and not anticipated by the 50 kD protein and cell lysates disclosed in Vollmers.

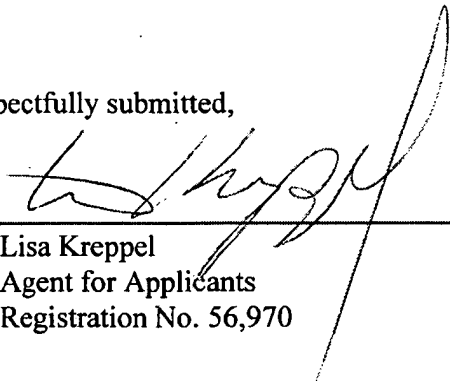
In view of the foregoing, reconsideration and withdrawal of the rejection of claims 1, 4, 42, 43 and 45-56 are respectfully requested.

### CONCLUSION

In view of the above remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

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Respectfully submitted,

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